

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 795 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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CHANDRAKANTBHAI GOKALBHAI VAGHELA

Versus

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CHIMANBHAI RANCHHODBHAI PATEL

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Appearance:

MR RR VAKIL for Petitioner  
MR PJ PATEL for Respondent No. 1  
GOVERNMENT PLEADER for Respondent No. 2

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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 20/06/98

ORAL JUDGEMENT

Rule. In the facts and circumstances of the case, the matter is taken up for final hearing today.

2. This petition under Article 226 of the Constitution challenges the order dated 4-2-1998 passed by the Addl.Chief Secretary (Appeal),Revenue Department, Government of Gujarat, vacating the interim stay of the

order dated 13-5-1993 of the Collector, which was earlier granted by the Addl. Chief Secretary on 18-10-1995. The interim relief was vacated on the ground that there were two Advocates on record for the petitioner and one of them was sick and therefore, the revision application could have been argued by the other advocate appearing on behalf of the petitioner. Earlier also there were adjournments and therefore, the Addl. Chief Secretary drew an adverse inference that on the ground of sickness of one of the Advocates the petitioner was trying to delay the proceedings under the Bombay Land Revenue Code, after obtaining the stay.

3. While issuing notice, this Court had granted ad interim relief requiring the respondents to maintain status quo with regard to the land in question being Final Plot No. 266 of T.P. Scheme No. 3 of village Anand, District Anand.

4. At the hearing of this petition Mr. R.R. Vakil, learned Counsel appearing for the petitioner has stated that while passing the order under challenge, the revisional authority had lost sight of the fact that on 4-2-1998 the petitioner was not represented by two Advocates on record. Earlier a joint vakalatnama of Mr. R.C. Parikh and Mr. R.R. Vakil was filed by the petitioner. Thereafter on 7-1-1998 a fresh vakalatnama of Mr. R.R. Vakil, Advocate was filed with no objection from Advocate Mr. R.C. Parikh and therefore, on 4-2-1998 Mr. R.R. Vakil was the only Advocate who was representing the petitioner in the aforesaid Revision Application before the Additional Chief Secretary. Hence, on 4-2-1998 it was not possible for the petitioner to make immediate alternative arrangement for proceeding with the hearing of the revision application. It is further submitted by Mr. Vakil, who has also appeared on behalf of the petitioner before this Court that earlier respondent no. 1 had not appeared before the revisional authority from the date of the filing of the revision application till 6-1-1998 and it was for the first time that respondent no. 1 had appeared before the revisional authority on 7-1-1998, and prayed for adjournment and the matter was fixed for hearing on 4-2-1998 on which date Mr. Vakil unfortunately fell sick.

5. On the other hand Mr. P.J. Patel learned Counsel appearing for respondent no. 1 and Mr. Joshi, learned AGP appearing for respondent no. 2 have opposed the petition and has submitted that the petitioner's advocate had prayed for adjournment on a number of occasions in the years 1996 and 1997 and therefore, the revisional

authority was justified in vacating the interim order.

6. Having heard the learned Counsel for the parties and having regard to the fact that the hearing of the revision application is now fixed before the revisional authority on 24-6-1998 and particularly in view of the fact that the ad interim relief has continued during the pendency of this petition for the last about five months, it appears to the Court that the interest of justice would be served if the impugned order dated 4-2-1998 is set aside and the ad interim relief granted earlier by this Court on 9-2-1998 is ordered to continue till disposal of the revision application in view of the assurance being held out on behalf of the petitioner that no adjournment will be sought for before the revisional authority and that the petitioner as well as his learned Counsel will cooperate for the expeditious disposal of the revision application.

7. Rule is accordingly made absolute to the aforesaid extent with costs quantified at Rs.500/- for each of the respondents. The amount of costs will be deposited in this Court within one week from today.

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